

MEMORANDUM

July 7, 2004

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: ELIZABETH KESSEL
Kessel & Associates

ROGER H. GRANBO
Principal Deputy County Counsel
General Litigation Division

RE: Henrietta Willis-Kendall v. County of Los Angeles
Norwalk Superior Court Case No. VC040406

DATE OF
INCIDENT: June 19, 2001

AUTHORITY
REQUESTED: \$60,000

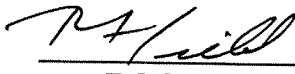
COUNTY
DEPARTMENT: Registrar-Recorder/County Clerk


CLAIMS BOARD ACTION:

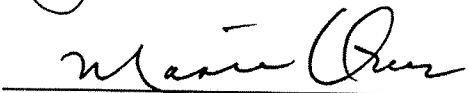
☒ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on August 16, 2004

SUMMARY

This is a recommendation to settle for \$60,000, a lawsuit filed by Henrietta Willis-Kendall, who alleges that she was sexually harassed by her supervisor at the Registrar-Recorder/County Clerk.

LEGAL PRINCIPLES

The County is responsible for the intentional and negligent acts of its employees when the acts are done in the course and scope of employment. Under the Fair Employment and Housing Act (FEHA), an employer is liable for the acts of its supervisors when the supervisor sexually harasses another employee. FEHA also imposes liability on an individual employee for committing sexual harassment on another in the workplace.

SUMMARY OF FACTS

Henrietta Willis-Kendall is an Administrative Services Manager in the Registrar-Recorder/County Clerk's Office. According to Ms. Willis-Kendall, on June 19, 2001, a male co-worker entered her cubicle, unzipped his pants, and exposed himself. She says she saw shirt tails and flesh. Ms. Willis-Kendall told another co-worker about the incident soon after it occurred, but she waited until August 13, 2001 to complain about the incident to the head of Employee Relations. An investigation was immediately conducted by the Registrar-Recorder's office.

During the investigation, the co-worker admitted that he jokingly asked Ms. Willis-Kendall if he could flash her, and that she said yes. The supervisor started to unzip his pants as if he were going to expose himself, but then Ms. Willis-Kendall told him to stop, and the co-worker stopped and left the cubicle. The co-worker denies that he actually exposed himself.

The co-worker and Ms. Willis-Kendall had worked together since 1989 and were friends. By all accounts, they had lunch together often, and had a history of joking around with each other.

Ms. Willis-Kendall left work on August 13, 2001, as a result of emotional distress, and subsequently filed a claim with Department of Fair Employment and Housing. She did not return to work until September 2003.

The Registrar Recorder's office completed their investigation in October of 2001. The Office of Affirmative Action Compliance ("OAAC") also conducted an investigation that revealed that the Department had conducted a thorough and timely investigation, and took appropriate action with respect to the co-worker.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Loss of earnings	\$130,000
Emotional distress	\$100,000
Attorney fees	<u>\$200,000</u>
Total	<u>\$430,000</u>

The proposed settlement calls for the County to pay Henrietta Willis-Kendall \$60,000 for all of her claims for damages, costs, and attorney fees.

STATUS OF CASE

The trial court proceedings have been suspended pending the consideration of this proposed settlement.

Expenses incurred by the County in defense of this action are attorney fees of \$36,895 and \$1,683 in costs.

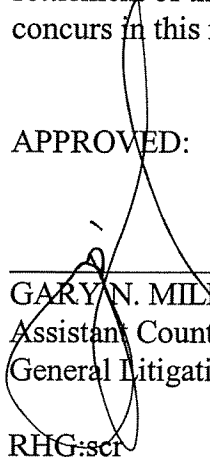
EVALUATION

This is a case of potential liability. The co-worker admits that he asked Ms. Willis-Kendall if he could flash her, and he started to unzip his pants as if he were going to expose himself. Even if a jury believes that he didn't expose himself, it could still find that the co-worker's conduct was inappropriate and amounted to sexual harassment.

In addition, Ms. Willis-Kendall claims that the co-worker was a supervisor based upon some of the duties and responsibilities he had with respect to her position. The Department contends that he was not a supervisor. If the co-worker is found to be a supervisor, the County would be held strictly liable for the sexual harassment. A reasonable settlement at this time will avoid further litigation costs and a potential jury verdict that could exceed the proposed settlement.

We join with our private counsel, Kessel & Associates, and our third-party administrator, Carl Warren and Company, in recommending a settlement of this matter in the total amount of \$60,000. The Registrar-Recorder concurs in this recommendation.

APPROVED:



GARY N. MILLER
Assistant County Counsel
General Litigation Division

RHG:scr